



CITY OF NEWARK

Planning Commission

City Hall, City Council Chambers

37101 Newark Boulevard, Newark, CA 94560 | (510) 578-4330 | E-mail: planning@newark.org

AGENDA

Tuesday, January 23, 2024
7:00 P.M.

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of November 14, 2023.

(MOTION)

C. WRITTEN COMMUNICATIONS

D. ORAL COMMUNICATIONS

Members of the public are invited to address the Planning Commission on any item not listed on the agenda. Public Comments are generally limited to 5 minutes per speaker. Please note that State law prohibits the Commission from acting on non-agenda items.

E. PUBLIC HEARINGS

F. STAFF REPORTS

F.1 2023-2031 General Plan Housing Element- Overview of Non-Substantive Revisions After Adoption.

(INFORMATIONAL)

G. COMMISSION MATTERS

G.1 Report on City Council actions.

H. PLANNING COMMISSIONER COMMENTS

I. ADJOURNMENT

MEETING INFORMATION

Members of the public may attend the meeting in person, watch online, or watch on Cable Channel 26. The ability to observe online or on Cable Channel 26 is predicated on those technologies being available and functioning without technical difficulties. Should those platforms not be available, or become non-functioning, or should the Planning Commission otherwise encounter technical difficulties that make those platforms unavailable, the Planning Commission will proceed with business in person unless otherwise prohibited by law.

How to view the meeting remotely:

YouTube Livestream: <https://www.youtube.com/@cityofnewark3077/streams>

Copy/paste the YouTube URL into your browser if the link does not automatically open.

Cable Channel 26 - if the meeting does not broadcast live, please contact your service provider, and request the City of Newark channel lineup.

Zoom will no longer be available for public participation unless required by Assembly Bill 2449. Should a Planning Commission Member attend the meeting via Zoom pursuant to Assembly Bill 2249, then the **Webinar ID: 884 3196 9025** will be activated. The Planning Commissioner Chairperson will make an announcement at the beginning of the meeting that the Planning Commission will be allowing public comment via Zoom. Raise your virtual hand to notify the Clerk that you would like to speak during the item that you wish to speak on.

Submission of Public Comments: Public comments received by 4:00 p.m. on the Planning Commission meeting date will be provided to the Planning Commission and considered before Planning Commission action. Comments may be submitted by email to planning@newark.org.

No question shall be asked of a Planning Commissioner, city staff, or an audience member except through the Chairperson. No person shall interrupt the meeting. Any person who refuses to carry out instructions given by the Chairperson for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.

Commission Meeting Access/Materials:

The agenda packet is available for review at [Agendas and Minutes](#). The packet is typically posted to the City website the Friday before the meeting, but no later than 72 hours before the meeting.

Pursuant to Government Code 54957.5, supplemental materials distributed less than 72 hours before this meeting, to a majority of the Planning Commission, will be made available for public inspection at this meeting and will be posted at <https://www.newark.org/departments/city-manager-s-office/agendas-minutes> and will concurrently be made available for public inspection during regular business hours at City Hall, 37101 Newark Boulevard, Newark CA. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

For those persons who require special accommodations, please contact the Administrative Support Specialist at least two days prior to the meeting at planning@newark.org or 510-578-4330.



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MINUTES

Tuesday, November 14, 2023
7:00 P.M.

A. ROLL CALL

Chair Fitts called the meeting to order at 7:01 pm. All members of the Planning Commission were present: Chair Fitts, Vice Chair Aguilar, Commissioner Becker, Commissioner Bogisich, and Commissioner Pitpitan.

B. MINUTES

B1. Approval of Minutes of the regular Planning Commission meeting of October 24, 2023.

MOTION APPROVED

Chair Fitts requested a motion. Commissioner Aguilar moved, and Commissioner Becker seconded, to approve the Minutes of the regular Planning Commission meeting on October 24, 2023. The motion passed – **4 AYES, 1 ABSTAIN** (Chair Fitts was absent).

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

Members of the public are invited to address the Planning Commission on any item not listed on the agenda. Public Comments are generally limited to 5 minutes per speaker. Please note that State law prohibits the Commission from acting on non-agenda items.

None.

E. PUBLIC HEARINGS

E.1 Public Hearing to Consider a Recommendation to the City Council for the adoption of an ordinance adding chapter 17.15 to the Newark Municipal Code to establish the By Right Housing (-BRH) overlay district, amending the Newark Zoning Map by applying the BRH Overlay District to specific parcels, and making related miscellaneous amendments to Title 17, Zoning, of the Newark Municipal Code.

Steven Turner, Community Development Director (CDD), provided a summary of the creation of a By Right Housing Overlay District and the rezoning of specific parcels. He started by describing the City's General Plan that establishes the City's vision, objectives, policies, and measures for how the City should develop and be built over time. He went on to say that the City has a housing element, which is a plan for the community's housing needs, that outlines where housing should be built and how much can be developed, places an emphasis on housing production targets which is expressed through the Regional Housing Needs Allocation process (RHNA), that it is updated every eight years, and must be reviewed and approved by the State of California. CDD Turner stated that the Planning Commission has spent the last year analyzing the recommended 2023-2031 Housing Element, and Staff has been developing the Draft Element for public assessment. He then stated that the Planning Commission reviewed the Housing Element on October 24, and recommended that the City Council adopt it and that it is now with the State's Department of Housing and Community Development for final review and possible certification by the end of December 2023. He went on to say that the State assigned 441,176 housing units to the Bay Area region owing to the region's need for affordable housing, which is an idealistic target for communities in the region to have the right rules and initiatives in place to encourage developers to create homes. He stated that Newark's portion of the 441,176 housing units is 1,874; therefore, the City must have policies and programs in place to encourage private construction of that housing over the next eight years. CDD Turner went on to state that the City has identified sites in the Housing Element, and with the planned residential development, the City could handle 1,874 units. Among those sites, he said, the Old Town area would have a good number of units for RHNA purposes, while other sites have approved projects, are under construction, or are in some stage of development, and some are

already zoned as residential, allowing housing as permitted uses. He claimed that with all this combined, the City would be able to meet its housing allocation of 1,874 units. Furthermore, he stated that there are two newly identified sites, Site 14 (New Park Place), which has a specific plan for that site, and Site 6 (Cedar Community Apartments), which recently converted 124 units of a former motel into housing for low-income, at-risk, or homeless families. He went on to say that most of the sites that have projects are in the early stages of development, or do not have projects but have been exhibited on past housing elements are referred to as reused or carryover sites. CDD Turner then stated that for the City to reuse the sites that were identified in previous housing elements, the State has enacted new laws that require cities to take specific measures, with the intention of creating incentives to encourage homeowners to build on their sites. One of those incentives is that sites that are being carried over to the new housing element must be rezoned as by-right housing sites, which implies that as long as developers follow all of the standards for creating residential developments, they will be approved by right. He also indicated that site rezoning must take place within one year following the adoption of the State's mandatory Housing Element deadline of January 31, 2023. He went on to state that by-right sites must allow for 20 dwellings per acre, and must be large enough to accommodate at least 16 units. Furthermore, he said that Newark has 26 reused properties that are eligible for by-right rezoning and that their dwellings must include a minimum of 20% units for low-income households as well as meet all objective standards and site development restrictions. CDD Turner noted that Policy H3.1 in the Housing Element says that projects with 20% affordable units on reused sites are eligible for by-right approval and that the Zoning Ordinance needs to be amended to reflect the by-right permission. He stated that the Zoning Ordinance Amendments are included in the Staff Report and consist of a new amendment to Section 17.03.010, which modifies By-Right Housing as an Overlay District, and a new chapter, 17.15, By-Right Housing, which includes the Overlay District, the Purpose, Applicability, Permitted Uses, and Procedures. To conclude his presentation, CDD Turner stated that the amendment is consistent with the General Plan and that the zoning amendment will promote and protect public health, safety, and general welfare. Finally, he stated that the public notice was advertised in Tri-Cities Voice on October 31st, that it was mailed to affected homeowners as well as property owners within 500 feet of each impacted parcel, and that the requested action is exempt from CEQA because there are no changes

to the existing land use, no changes to the extent of land use, no project entitlements would need to be approved, and no potential for causing major impact to the environment.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission adopt a resolution recommending that the City Council adopt an ordinance adding Chapter 17.15 to the Newark Municipal Code to establish the By Right Housing (-BRH) Overlay District, amending the Newark Zoning Map by applying the -BRH Overlay District to specific parcels and making related miscellaneous amendments to Title 17, Zoning, of the Newark Municipal Code.

Chair Fitts inquired of the Commissioners whether they had any questions for Staff.

Vice Chair Aguilar requested CDD Turner to clarify whether the objective standards would be subject to the existing Overlay District or if new objective standards would be established following the By Right Housing approval.

As stated by CDD Turner, the City's objective standards are set forth in the Zoning Ordinance and apply to each zoning district; therefore, the By Right Overlay District does not alter those requirements; instead, it simply allows ministerial approval of certain residential development projects, subject to all site development regulations as well as the objective standards presently included in the Municipal Code.

Commissioner Becker questioned if property owners would have the final word on whether to sell or develop their property.

CDD Turner answered that the Overlay District does not require property owners to build any project on their site and that if a property owner desires to develop and propose a qualifying project, it provides a more expedited process for the City's approval.

Commissioner Becker stated that he is not a strong supporter of by-right housing because it takes control away from the City's , and he advised Staff that when the next eight years come around to do an updated Housing Element, be very cautious about using reused sites because doing so ties the City's hands in terms of the types of developments the City would like to see develop.

CDD Turner thanked Commissioner Becker for his comment.

Chair Fitts inquired of the Commissioners whether they had any questions for Staff. No one had any comments.

Chair Fitts opened the Public Hearing and invited anyone in the audience or via Zoom to speak on the agenda item. There were no comments from the audience, and there were no Zoom participants. Chair Fitts closed the Public Hearing.

Chair Fitts inquired whether all residents on the affected sites had been informed of the changes before the evening hearing.

CDD Turner replied in the affirmative, adding that all property owners affected by the modifications, as well as those living within 500 feet of each affected property, have been notified. He then mentioned that Staff received a letter from Alameda County Water District (ACWD) reminding Staff and property owners to be aware when doing future developments on their properties to communicate with ACWD concerning any facilities that may be on those properties, such as wells, hazardous materials, or any other kind of conditions that the water district may control or on which the water district may want to comment, so projects are adjusted according to their requirements.

Vice Chair Aguilar questioned Staff about whether the term "zoning" could be placed before the word "district" in Exhibit B, Section 17.15.040 so that it would read "zoning district." This way, he claimed, would support the motion, and clear up any confusion or ensure that it does not come up for interpretation in the future since it is entirely ministerial.

As stated by CDD Turner, Staff agrees that the modification would be a beneficial addition and would support the motion.

Vice Chair Aguilar moved, and Commissioner Bogisich seconded to approve the motion.
The motion passed unanimously – 5 AYES.

MOTION APPROVED

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

As reported by CDD Turner, Chair Fitts was re-appointed by the City Council to the Planning Commission for another four-year term. He continued by saying that Commissioner Fitts had received great praise from the City Council for his tenure on the Commission, commitment to the City, and public service. In closing, he expressed Staff's congratulations to Commissioner Fitts on his appointment to the Commission.

Chair Fitts said he was glad to be on the Commission and that he was looking forward to continuing as long as he could contribute. He mentioned how much he enjoyed seeing all the projects that have been proposed, including the Costco project, which he thought was a terrific one.

H. PLANNING COMMISSIONER COMMENTS

Chair Fitts announced that Commissioner Pitpitan's term on the Planning Commission will conclude at the end of December. Chair Fitts stated he appreciated her contributions. He said she had done a fantastic job, done her homework, attended the meetings, and wished her luck in all her future endeavors.

Commissioner Pitpitan expressed her gratitude to Chair Fitts and said it had been a joy and honor to serve. She also thanked Staff and the other Commissioners for their warm welcome and assistance in teaching her, saying it had been a fantastic experience. She continued by saying that she had been intermittently residing in Newark since 1982, that she loved the city, believed it was in excellent hands, and that the future looked promising.

Commissioner Becker asked Chair Fitts how long he had been in service and congratulated him on his reappointment.

As stated by Chair Fitts, he will begin his 38th year of service.

In addition, Commissioner Becker congratulated Commissioner Pitpitan, expressed gratitude to her for her service to the Commission, and wished her well in her upcoming endeavors.

Vice Chair Aguilar complimented Chair Fitts for his exceptional years of service and shared Commissioner Becker's words regarding Commissioner Pitpitan, congratulating her and saying it had been a pleasure working with her.

Commissioner Bogisich congratulated Chair Fitts and said that she was going to miss Commissioner Pitpitan.

I. ADJOURNMENT

Chair Fitts adjourned the Planning Commission meeting at 7:31 p.m.



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Staff Report

Tuesday, January 23, 2024
7:00 p.m.

F.1 2023-2031 General Plan Housing Element- Overview of Non-Substantive Revisions After Adoption.

(INFORMATIONAL)

Background

On October 24, 2023, the Planning Commission adopted Resolution No. 2009, recommending that the City Council adopt the 2023-2031 Housing Element (the “Housing Element”) dated October 3, 2023, with additional revisions recommended by city staff via a Planning Commission Memo “slip sheet” that was prepared by staff and presented to the Planning Commission at the October 24 meeting. On October 26, 2023 the City Council received the Planning Commission’s Resolution 2009, the “slip sheet” describing the additional revisions, held a public hearing, and adopted resolution No. 11,575, adopting the 2023-2031 Housing Element with staff’s recommended revisions. Council’s resolution provides that the city manager or his/her designee return to the Planning Commission and City Council with an analysis of recommendations for supplemental text amendments provided by the Department of Housing and Community Development (HCD) within 60 days of Housing Element certification.

Since the October 26 City Council meeting, city staff and staff from HCD met regularly to discuss the remaining issues from HCD’s perspective that needed to be addressed prior to Housing Element certification. On November 1, 2023, the City submitted the Council-adopted Housing Element to HCD for a 60-day review period. City staff and HCD staff continued to discuss the Housing Element and on December 1, 2023, the City released an updated draft Housing Element for a seven-day public review period and submitted it to HCD on December 11, 2023. The December 1 Housing Element contained additional revisions requested by HCD. The additional revisions are grouped into three main categories: additional analysis of potential development constraints, additional analysis of sites, and more detailed commitments in programs to address constraints. The revisions are summarized below. On December 21, 2023, the City received notification that the Housing Element is in “substantial compliance” with state law and is “certified.”

Discussion

Consistent with the City Council’s adopting resolution No. 11,575, City staff is providing the Planning Commission with an analysis of the Housing Element text amendments since October 24, 2023, recommendation to the City Council and October 26, 2023, City Council Housing Element adoption action. This discussion does not include the October 24 “slip sheet” revisions, which were considered at the October 24 Planning Commission meeting and included as part of the Planning Commission’s recommendation to the City Council.

Additional analysis of potential constraints (pgs. 150-155 of the 12/1/23 draft)

The revisions to the Housing Element contain a detailed narrative analysis of the city’s existing development standards and requirements and a discussion of the potential for these to constrain residential development:

- Minimum Lot Area
- Setbacks
- Height
- Lot Coverage
- Parking
- Open Space Requirements
- Minimum Commercial Component in Mixed Use Zones

Additional Analysis of Housing Sites

The revisions to the Housing Element contain more information regarding specific sites or groups of sites that, if developed with residential uses, would help meet our Regional Housing Needs Allocation (RHNA) goals.

- Table C-3, “Planned and Proposed Sites with Project Status.” New information was added to clearly describe the remaining steps in the entitlement process, known barriers to development, and expected completion dates (pgs. C-12 to C-16 of the 12/1/23 draft).
- Added more details to the “Small Sites Analysis” (pgs. C-20, C-46, C-53, C-56, C-57, and C-60 of the 12/1/23 draft), including the lot consolidation potential for specific sites (Sites 16, 20, 23, 24, 27)
- “Realistic Capacity Evaluation – Approach and Methodology” (pgs. C-22 to C-25 of the 12/1/23 draft). More context and explanation of the methodology behind the realistic capacity analysis was added.

Program Commitments

The revisions to the Housing Element contain additional commitment within the following proposed programs:

1. Program H2.3: Four Corners (pg. 216 of the 12/1/23 draft) has an additional commitment to maximize achievable densities (bolded text is new):

The community-guided plan will include zoning and site development standards that will incentivize the development of multi-unit housing, with a target of 360 units on existing commercial properties in the Four Corners area. **As part of the plan, the City will establish or modify development standards to facilitate maximum densities.**

2. Program H2.11: Lot Consolidation (pg. 224 of the 12/1/23 draft) will be adopted by mid-2025 rather than 2026.
3. Program H2.12: Maximum Densities (pg. 224 of the 12/1/23 draft) now includes the following language to remove height limit barriers that may present a constraint to achieving maximum densities (bolded text is new):

Review, and amend as necessary, city requirements and development standards in all zones that allow residential development to ensure that maximum densities are achievable. This includes those standards and requirements related to maximum units per building, maximum building coverage, required open space per unit, minimum lot area, setbacks, height limits, parking (also see Program H3.5) and limits on allowable densities. **Specifically, remove the MUP requirement for buildings over 35 feet in the RM and RH zones and review whether the 60-foot height limit in the CMU zone (outside of the Old Town Specific Plan area) is a constraint on development and make needed changes, or allowing for flexibility to achieve maximum allowable densities.**

4. Program H3.5: Parking Standards Update and Study (pg. 227 of the 12/1/23 draft) will be completed by mid-2025 rather than the end of 2025.
5. Program H4.10: Special Needs Housing (pg. 233 of the 12/1/23 draft) has been updated to ensure the emergency shelter provisions meet the adoption timeline requirements of AB 2339. The ordinance will be amended by October 26, 2024, or one year from the date of housing element adoption, instead of “by the end of 2024.”
6. Program H7.6 Monitor Annual Progress (pg. 241 of the clean 12/1/23 draft) includes additional language to bolster its commitment to reviewing and making appropriate changes:

The City will evaluate planned, approved, and pending projects for progress toward completion every other year and if necessary, take alternative actions (e.g., additional sites or rezoning) within one year.

The revisions to Program H2.12 (Maximum Densities, pg. 224 of the 12/1/23 draft) represent a revision worth discussing, in that HCD has stated that the MUP requirement for heights above 35 feet in the RM (Residential Medium Density) and RH (Residential High Density) districts may represent a barrier to the production of housing. The maximum heights in the RM and RH districts are 75 feet and 100 feet, respectively, with a 35-foot height limit within 20 feet of the lower-density residential districts, Residential Single Family (RS) and Residential Low Density (RL). The stepped-down maximum height for sites adjacent to RS and RL districts is intended to reduce building mass and create more compatible buildings between adjacent lots. HCD has indicated that the MUP requirement represents a significant issue that must be addressed prior to Housing Element certification.

To address the issue, city staff supports the proposed Program H2.12 revision that would direct the city to remove the MUP requirement for residential building heights greater than 35 feet. The

MUP is commonly used as a tool to control use on a site rather than the form of a building. The ability to control and regulate the form and massing of a building can be achieved in other ways. The Housing Element contains a specific program that, when implemented, will assist the city when reviewing new buildings (Program H3.2 (Objective Design Standards)). The stepped-down maximum heights adjacent to the RM and RL are not proposed to be eliminated. As required in Program H2.12, the city would initiate a study to assess site development regulations, including the maximum height regulations in the Commercial Mixed Use (CMU) district to ensure that the maximum densities of each district are achievable. The Planning Commission and City Council would review changes to site development regulations.

The revisions described above are considered by staff to be “non-substantive” pursuant to the City Council-approved resolution, which allows the Community Development Director to make non-substantive changes requested by HCD to achieve certification.

As stated earlier in the report, HCD has accepted these non-substantive revisions and “certified” the Housing Element.

The Housing Element document containing the above revisions can be found at the Housing Element website: www.newarkhousingupdate.org.

Action

This is an informational item only. No Planning Commission action is required.